

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA (Philadelphia)**

IN RE: JULIE VERONICA FOLINO Debtor	Case No. 21-12645-amc
PHH MORTGAGE CORPORATION Movant	Chapter 13
vs. JULIE VERONICA FOLINO Respondent	11 U.S.C. §362

**MOTION FOR RELIEF FROM AUTOMATIC STAY UNDER §362 PURSUANT TO
BANKRUPTCY PROCEDURE RULE 4001**

Movant, by its attorneys, Brock and Scott PLLC, hereby requests a termination of Automatic Stay and leave to proceed with its state court rights on its mortgage on real property owned by Julie Folino (the “Debtor”).

1. Movant is PHH Mortgage Corporation.
2. Debtor, Julie Folino, is the owner of the premises located at 1031 Tree Street, Philadelphia, Pennsylvania 19148 hereinafter known as the mortgaged premises.
3. Movant is the holder of a mortgage on the mortgaged premises.
4. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.
5. Movant instituted foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required hereunder.
6. The foreclosure proceedings instituted were stayed by the filing of the instant Chapter 13 Petition.
7. Movant filed a Total Debt Proof of Claim on December 21, 2021 as the loan will mature on December 1, 2026. A copy of the Proof of claim is attached hereto as **Exhibit “A”**.

8. The Debtor is responsible for paying property taxes and homeowner's insurance.

9. As of May 16, 2023, the Debtor has failed to remain current on post-petition Taxes and Insurance obligations and is delinquent in the amount of \$4,183.56

10. The following chart sets forth the number and amount of Taxes and Insurance obligations that have been missed as of May 16, 2023:

Authority	Tax or Insurance Disbursement	Disbursement Date	Total Amounts Delinquent
Liberty Mutual	Insurance	05/05/2022	\$2,501.00
Philadelphia City Dept of Revenue Real EST DEP	Tax	03/01/2023	\$1,682.56
Less partial payments (suspense balance): (\$0.00)			
			Total: <u>\$4,183.56</u>

11. A Chapter 13 Debtor who is seeking to payoff the loan in their Plan is a Debtor in possession and thus is required to safeguard the estate. Carrying proper insurance is one of those safeguards.

12. Movant has cause to have the Automatic Stay terminated pursuant to §362 as to permit Movant to exercise its state court rights under the loan documents.

13. Movant specifically requests permission from the Honorable Court to communicate with and Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

14. Movant, its successors and assignees posits that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees should be allowed to immediately enforce and implement the Order granting relief from the automatic stay.

15. Movant requests that if relief is granted that Federal Rule of Bankruptcy Procedure 3002.1 be waived.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

- a. Modifying the Automatic Stay under Section 362 with respect to 1031 Tree Street, Philadelphia, Pennsylvania 19148 (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and
- b. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law; and
- c. Holding that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever-increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees, should be allowed to immediately enforce and implement the Order granting relief from the automatic stay; and
- d. Waiving Federal Rule of Bankruptcy Procedure 3002.1; and
- e. Granting any other relief that this Court deems equitable and just.

Dated: **June 13, 2023**

/s/Andrew Spivack

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